

HOUSE BILL 3802

By Pitts

AN ACT to amend Tennessee Code Annotated, Title 4;
Title 33; Title 62; Title 63 and Title 68, relative to
social workers.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 63, Chapter 23, is amended by deleting Sections 63-23-101 through 63-23-111, inclusive, in their entireties and by substituting instead the following new sections:

63-23-101.

(a) There is created the board of social worker certification and licensure. On and after July 1, 2008, the board of social worker certification and licensure is renamed and shall be known as the board of social worker licensure.

(b)

(1) On and after July 1, 2008, the board shall consist of (9) members, one (1) of whom shall be a representative of the public, and the remainder each of whom shall be social workers who possess the qualifications specified in §§ 63-23-102—63-23-105. The board shall at all times be composed of an equal number of licensed baccalaureate social workers, licensed masters social workers, licensed advanced practice social workers and licensed clinical social workers, all who shall be residents of the state, and who shall be appointed by the governor.

(2) In order to transition to the nine-member board with new licensure classifications, appointments to the board on and after July 1, 2008, shall be made in the following manner:

(A) An licensed advanced practice social worker shall be appointed to the board as a new member for a five-year term;

(B) A licensed baccalaureate social worker shall be appointed to the board as a new member for a five-year term;

(C) A certified master social worker whose term expires in 2008 shall be replaced by the appointment of a licensed baccalaureate social worker for a five-year term;

(D) A certified master social worker whose term expires in 2008 shall be replaced by the appointment of a licensed master social worker for a five-year term;

(E) An independent practitioner whose term expires in 2009 shall be replaced by the appointment of a licensed clinical social worker for a five-year term;

(F) An independent practitioner whose term expires in 2009 shall be replaced by the appointment of a licensed advanced practice social worker for a five-year term;

(G) A certified master social worker whose term expires in 2009 shall be replaced by the appointment of a licensed master social worker for a five-year term;

(H) An independent practitioner whose term expires in 2010 shall be replaced by the appointment of a licensed clinical social worker for a five-year term; and

(I) The member of the public, who is not directly or indirectly engaged in social work, whose term expires in 2011 shall be replaced by a member of the public for a five-year term.

(3) The Tennessee Chapter of the National Association of Social Workers may submit a list of at least three (3) nominees for each appointment or vacancy to be filled and the governor may make such appointment from such list.

(4) All board members, except the member of the public who is not directly or indirectly engaged in social work, shall be duly licensed or eligible to be licensed by the board. Subsequent appointees to the board shall possess the professional qualifications required by their predecessors as required in this section and shall be appointed to five-year terms.

(5) Members shall serve until their successors are appointed and qualified. Any vacancy occurring on the board shall be filled by the governor for the balance of the unexpired term. A board member is eligible for reappointment.

(6) In making appointments to the board, the governor shall strive to ensure that at least one (1) person serving on the board is sixty (60) years of age or older and that at least one (1) person serving on the board is a member of a racial minority.

(c) For each day engaged in the business of the board, members shall receive as compensation fifty dollars (\$50.00), and shall also receive actual expenses to be paid in accordance with the comprehensive travel regulations promulgated by the commissioner of finance and administration and approved by the attorney general and reporter.

(d) The members of the board shall annually elect a chair and a secretary.

(e) The board shall meet as frequently as shall be reasonably necessary to implement this chapter. Five (5) or more members of the board constitute a quorum for transacting board business.

(f) For administrative purposes, the board shall be attached to the division of health related boards, as defined in § 68-1-101, referred to as "division" in this chapter. 63-23-102.

(a) The practice of baccalaureate social work is the professional application of social work theory, knowledge, methods, principles, values and ethics and the professional use of self to restore or enhance social, psychosocial or biopsychosocial functioning of individuals, couples, families, groups, organizations and communities. The practice of baccalaureate social work is basic generalist practice that includes interviewing, assessment, planning, intervention, evaluation, case management, mediation, supportive counseling, direct non-clinical practice, information and referral, problem solving, client education, advocacy, community organization, supervision of employees, and the development, implementation, and administration of policies, programs and activities. Baccalaureate social workers are not qualified to diagnose or treat mental illness nor provide psychotherapy services. A social worker at this level shall work in or for an agency or organization and shall not provide services to clients in exchange for direct payment or third party reimbursement. Licensed baccalaureate social workers shall not engage in advanced social work practice or in clinical social work practice or hold themselves out as a licensed master social worker, a licensed advanced practice social worker or a licensed clinical social worker. A social worker may not prescribe medication or interpret psychological tests.

(b)

(1) To obtain a license to engage in the practice of baccalaureate social work an applicant must provide evidence satisfactory to the board that the applicant:

(A) Has submitted a written application in the form prescribed by the board;

(B) Has paid all applicable fees specified by the board relative to the licensure process;

(C) Has attained the age of majority;

(D) Has graduated and received a baccalaureate degree in social work from a Council on Social Work Education approved program; and

(E) Has successfully passed the Association for Social Work Board's bachelors licensing exam.

(2) Any baccalaureate social worker who graduated before 1980 or who has graduated from a Council on Social Work Education accredited program since 1980 may apply for licensure as a baccalaureate social worker without examination for a period of eighteen (18) months after this act is effective.

(c) No person shall, by verbal claim, advertisement, letterhead, card or in any other way represent that such person is a licensed baccalaureate social worker unless such person possesses a valid license issued pursuant to subsection (b).

(d) A violation of this section 63-23-102 is a Class A misdemeanor.

63-23-103.

(a) The practice of licensed masters social work is the professional application of social work theory, knowledge, methods, principles, values and ethics and the professional use of self to restore or enhance social, psychosocial or biopsychosocial functioning of individuals, couples, families, groups, organizations and communities. The practice of master's social work requires the application of specialized knowledge and advanced practice skills in the areas of assessment, treatment planning, implementation and evaluation, case management, mediation, counseling, supportive counseling, direct practice, information and referral, supervision of employees, consultation, education, research, advocacy, community organization and the development, implementation, and administration of policies, programs and activities. The practice of masters social work may include the practice of clinical social work under the clinical supervision of a licensed clinical social worker as an avenue for licensure as a clinical social worker. A social worker at this level shall not provide services to clients in exchange for direct

payment or third-party reimbursement. Licensed masters social workers shall engage only in supervised practice in or for an agency or organization and may not practice privately or independently. Licensed masters social workers may not hold themselves out as a licensed advance practice social worker or a licensed clinical social worker. A social worker may not prescribe medication or interpret psychological tests.

(b)

(1) To obtain a license to engage in the practice as a licensed masters social worker an applicant must provide evidence satisfactory to the board that the applicant:

(A) Has submitted a written application in the form prescribed by the board;

(B) Has paid all applicable fees specified by the board relative to the licensure process;

(C) Has attained the age of majority;

(D) Has graduated and received a masters or doctoral degree in social work from a Council on Social Work Education approved program; and

(E) Has successfully passed the Association for Social Work Board's masters licensing exam.

(2) Any person possessing a CMSW certificate at the time of implementation of this law will automatically become a licensed masters social worker without meeting any additional requirements.

(3) Any MSW who graduated before 1980 or who has graduated from a Council on Social Work Education accredited program since 1980 may apply for licensure without examination for a period of eighteen (18) months after this act is effective.

(c) No person shall, by verbal claim, advertisement, letterhead, card or in any other way represent that such person is a licensed masters social worker unless such person possesses a valid license issued pursuant to subsection (b).

(d) A violation of this section is a Class A misdemeanor.

(e) The board shall establish regulations for the issuance of temporary licenses for master social workers who hold the degree of master in social work or doctor in social work granted by any college, university, or school of social work which has applied for, but has not yet received, accreditation by the Council on Social Work Education. This practice activity shall be applicable towards meeting the provisions and requirements of §§ 63-23-104(b) or 63-23-105(b).
63-23-104.

(a) The practice of advanced social work as a non-clinical social worker is the professional application of social work theory, knowledge, methods, principles, values and ethics and the professional use of self to restore or enhance social, psychosocial or biopsychosocial functioning of individuals, couples, families, groups, organizations and communities. Advanced masters or doctorate social work practice requires the application of specialized knowledge and advanced practice skills in the areas of education, research, advocacy, community organization, mediation, consultation, assessment, treatment planning, implementation and evaluation, case management, counseling, supportive counseling, direct practice, information and referral, supervision, and the development, implementation, and administration of policies, programs and activities. The non-clinical advanced practice of social work may occur independently outside the jurisdiction of an agency or organizational setting in which the social worker assumes responsibility and accountability for the nature and quality of the services provided to clients, pro bono or in exchange for direct payment or third-party reimbursement. The practice of advanced master's or doctorate social work may include

the practice of clinical social work under the clinical supervision of a licensed clinical social worker as an avenue for licensure as a clinical social worker without the benefit of direct payments or third-party reimbursements for clinical practice. Practice at this level may include the provision of licensure supervision for non-clinical, macro practice licensed masters social workers. Licensed advanced practice social workers may not hold themselves out as a licensed clinical social worker. A social worker may not prescribe medication or interpret psychological tests.

(b)

(1) To obtain a license to engage in the practice as a licensed advanced practice social worker an applicant must provide evidence satisfactory to the board that the applicant:

(A) Has submitted a written application in the form prescribed by the board;

(B) Has paid all applicable fees specified by the board relative to the licensure process;

(C) Has attained the age of majority;

(D) Has graduated and received a masters or doctoral degree in social work from a Council on Social Work Education approved program;

(E) Has practiced for no less than two (2) years as a licensed masters social worker or temporarily licensed masters social worker under the supervision of a licensed advanced practice social worker or licensed clinical social worker; and

(F) Has successfully passed the Association for Social Work Board's advanced generalist licensing exam.

(2) Any graduate who graduated before 1980 or who has graduated from a Council on Social Work Education accredited program since 1980 may apply

for licensure without examination for a period of eighteen (18) months after this act is effective. The applicant must provide a work history of not less than three (3) years and a professional reference. Applicants who hold the current credentials of ACSW or DCSW from the National Association of Social Workers may submit documentation of these credentials in lieu of work history and professional reference.

(c) No person shall, by verbal claim, advertisement, letterhead, card or in any other way represent that such person is a licensed advanced practice social worker unless such person possesses a valid license issued pursuant to subsection (b)

(d) A violation of this section is a Class A misdemeanor.

63-23-105.

(a) The practice of advanced master's or doctorate social work as a clinical practitioner is a specialty within the practice of social work that requires the application of social work theory, knowledge, methods, principles, values, ethics, and the professional use of self to restore or enhance social, psychosocial or biopsychosocial functioning of individuals, couples, families, groups or persons who are adversely affected by social or psychosocial stress or health impairment. The practice of clinical social work requires the application of specialized clinical knowledge and advanced clinical skills in the areas of assessment, diagnosis and treatment of mental, emotional and behavioral disorders, conditions and addictions, including severe mental illness in adults and serious emotional disturbances in children, case management, direct practice, information and referral, clinical and non-clinical supervision, and the development, implementation, and administration of policies, programs and activities. Treatment methods include the provision of individual, marital, couple, family, and group therapy, mediation, counseling, supportive counseling, advanced case management, direct practice and psychotherapy. Clinical social workers are qualified to use the Diagnostic and Statistical Manual of

Mental Disorders (DSM), the International Classification of Diseases (ICD), and other diagnostic classification systems in assessment, diagnosis, treatment planning and other activities. The advanced practice of clinical social work may occur outside the jurisdiction of an agency or organizational setting in which the social worker assumes responsibility and accountability for the nature and quality of the services provided to clients, pro bono or in exchange for direct payment or third-party reimbursement. Practice at this level may include the provision of licensure supervision for clinical and non-clinical, macro practice licensed masters social workers or licensed advanced practice social workers. Licensed clinical social workers may also engage in independent and agency based non-clinical, macro social work practice. A social worker may not prescribe medication or interpret psychological tests.

(b) To obtain a license to engage in the practice independently as a licensed clinical social worker an applicant must:

- (1) Submit a written application in the form prescribed by the board;
- (2) Pay all applicable fees specified by the board relative to the licensure process;
- (3) Have attained the age of majority;
- (4) Have graduated and received a masters or doctoral degree in social work from a Council on Social Work Education approved program;
- (5) Have worked for not less than two (2) years as a licensed masters social worker, or temporarily licensed masters social worker under the supervision of a licensed clinical social worker or, if the applicant is from another state, have worked for not less than two (2) years prior to the date of application under the supervision of a person who possesses educational and experiential qualifications that meet or exceed the requirements for licensure in Tennessee as a licensed clinical social worker; and

(6) Successfully pass the Association for Social Work Board's clinical licensing exam.

(c) No person shall act as, or represent such person to be, a licensed clinical social worker as defined in this section unless such person possesses a valid license issued pursuant to subsection (b).

(d) A violation of this section is a Class A misdemeanor.

63-23-106.

(a) All persons who are licensed to practice social work shall renew their licenses as follows:

(1) Annual licensure renewal fees in an amount established by the board shall accompany each renewal application;

(2) If any holder of a license fails to renew the license within sixty (60) days after registration becomes due, the license of such person shall be automatically revoked without further notice or hearing unless specifically requested; and

(3) Notwithstanding any provision of this chapter to the contrary, the division of health related boards, with the approval of the commissioner, shall establish a system of license renewals at alternative intervals that will allow for the distribution of the license workload as uniformly as is practicable throughout the calendar year. Licenses issued under the alternative method are valid for twenty-four (24) months, and shall expire on the last day of the last month of the license period. However, during a transition period, or at any time thereafter when the board determines that the volume of work for any given interval is unduly burdensome or costly, either the licenses or renewals, or both of them, may be issued for terms of not less than six (6) months nor more than eighteen (18) months. The fee imposed for any license under the alternative interval

method for a period of other than twenty-four (24) months shall be proportionate to the annual fee and modified in no other manner, except that the proportional fee shall be rounded off to the nearest quarter of a dollar (25¢). No renewal application will be accepted after the last day of the month following the license expiration date under the alternative method authorized in this item.

(b) In accordance with the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, the board shall promulgate rules to establish continuing education requirements for persons seeking renewal of social work licenses.

63-23-107. Any person licensed to practice social work in this state, who has retired or may hereafter retire from such practice, is not required to register as required by this chapter; provided, that such person files with the board an affidavit on a form, prescribed by the board, which affidavit states the date on which the person retired from such practice and such other facts as are required by the board. If such person thereafter reengages in the practice of social work, such person shall register with the board as provided by this chapter.

63-23-108.

(a) The board has the power, which is its duty, to deny, suspend or revoke any license, or to otherwise discipline, an applicant or holder of a license who is found guilty by the board of one (1) or more of the following:

(1) Willful or repeated violation of any provisions of this chapter or any rules of the board;

(2) Fraud or deceit in procuring or attempting to procure a license, presenting to the board dishonest or fraudulent evidence of qualification, or fraud or deception in the process of examination for the purpose of securing a license;

(3) Willful failure to display a license;

(4) Fraud, deception, misrepresentation, dishonest or illegal practices in or connected with the practice of social work;

(5) Circulating knowingly untrue, fraudulent, misleading or deceptive advertising;

(6) Gross malpractice, or a pattern of continued or repeated malpractice, ignorance, negligence or incompetence in the course of practice;

(7) Unprofessional or unethical conduct, or engaging in practices in connection with the practice of social work that are in violation of the standards of professional conduct, as defined in this section or prescribed by the rules of the board;

(8) Conduct reflecting unfavorably upon the profession of social work;

(9) Willful making of any false statement as to material in any oath or affidavit that is required by this chapter;

(10) Revocation by another state of a license or certificate to practice in that state in which case the record of such revocation shall be conclusive evidence;

(11) Conviction of a felony under federal or state law involving use, misuse, possession or sale of any controlled substance;

(12) Conviction of a felony in the courts of this state or any other state, territory or country that, if committed in this state, would be a felony:

(A) The record of conviction in a court of competent jurisdiction is sufficient evidence for disciplinary action to be taken as may be considered proper by the board. For the purpose of this chapter, a conviction is considered to be a conviction that has been upheld by the highest appellate court having jurisdiction, or a conviction upon which the time for filing an appeal has passed; and

(B) A record of conviction upon charges that involve unlawful practice. Based upon such record of conviction, without any other

testimony, the board may take temporary disciplinary action even though an appeal for review by a higher court may be pending;

(13) Permitting or allowing another to use the license for the purpose of treating or offering to treat patients;

(14) Engaging in practice under a false or assumed name, or the impersonation of another practitioner of a like, similar or different name;

(15) Employing or permitting any person who does not hold a license to practice social work in this state to perform work that, under this chapter, can lawfully be done only by persons holding such license and permitted by law to practice social work in this state;

(16) Addiction to the habitual use of intoxicating liquors, narcotics or other stimulants to such an extent as to incapacitate the applicant or holder from the performance of the applicant's or holder's professional obligations and duties; or

(17) Having been judged mentally incompetent by a court of competent jurisdiction and the disabilities of such person not having been restored, or the voluntary commitment or admission to a state hospital or other mental institution. The record of adjudication, judgment, order or voluntary commitment is conclusive evidence of such mental illness, and upon receipt of a certified copy of any such adjudication, judgment, order or record of voluntary commitment by the board, it may suspend the license of the person so adjudicated or committed.

(b) The board may on its own motion cause to be investigated any report indicating that a license holder is or may be in violation of this chapter. Any person who in good faith reports to the board any information that a license holder is or may be in violation of this chapter is not subject to suit for civil damages as a result of the good faith report.

(c) All administrative proceedings for disciplinary action against a licensee undertaken pursuant to this chapter shall be conducted in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

63-23-109.

(a) The confidential relations and communications between a client and licensed social worker as defined in this chapter, are placed upon the same basis as those provided by law between licensed psychologists, licensed psychological examiners, licensed senior psychological examiners, certified psychological assistants and client, and nothing in this chapter shall be construed to require any such privileged communication to be disclosed.

(b) Nothing contained within this section shall be construed to prevent disclosure of confidential communications in proceedings arising under title 37, chapter 1, part 4, concerning mandatory child abuse reports.

63-23-110. The board is hereby authorized to promulgate, in accordance with the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, such rules as are necessary to implement this chapter.

63-23-111. The board may, at its discretion, grant a social worker license without examination, to any person residing or employed in the state who has not previously failed the examination given by the board and who at the time of application is licensed by another state whose standards, in the opinion of the board, are as stringent as those required by this chapter.

63-23-112. A person licensed pursuant to this chapter under a special volunteer license who is a medical practitioner, as defined by § 63-1-201, engaged in practice at a free health clinic shall not be subject to license fees under this chapter. The board of social worker licensure may issue a special volunteer license, as such license is defined in § 63-1-201, to qualified applicants without fee or charge. Such license shall be for a period of two (2) years and may be renewed on a biennial basis.

63-23-113.

(a) A social worker is an individual who:

(1) Has received a baccalaureate or master's degree in social work from an accredited social work program approved by the council on social work education;

(2) Has received a doctorate or Ph.D. in social work; or

(3) Is a current licensed social worker, as set forth in §§ 63-23-102 - 63-23-105, respectively.

(b) No person shall hold out to be a social worker unless such person:

(1) Has received a baccalaureate or master's degree in social work from an accredited social work school or program;

(2) Has received a doctorate or Ph.D. in social work; or

(3) Is a current licensed social worker, as set forth in §§ 63-23-102 - 63-23-105, respectively.

(c) No government entities, public or private agencies, business or organizations in the state shall use the title social worker, or any form of the title, for volunteer or employment positions or within contracts for services, documents, manuals, or reference material, effective July 1, 2005, unless the volunteers or employees in those positions meet the criteria set forth in this section.

(d) Any individual meeting the qualifications provided for in 42 CFR 483 may practice as a "qualified social worker", as defined in those regulations, in any nursing home licensed in the state, and shall not be required to meet the requirements of subsections (a)-(c). Any such individual may not use the title social worker, except in connection with the activities of the nursing home.

SECTION 2. Tennessee Code Annotated, Section 4-29-229(a)(12), is amended by deleting the language "certification and ".

SECTION 3. Tennessee Code Annotated, Section 33-1-101(18), is amended by deleting the language " social worker who is certified with two (2) years of mental health experience or is licensed; " and by substituting instead the language "licensed masters social worker with two (2) years of mental health experience or licensed clinical social worker;".

SECTION 4. Tennessee Code Annotated, Section 62-42-118, is amended by deleting the language "'certified master social worker,'" and by substituting instead the language ""licensed social worker,"".

SECTION 5. Tennessee Code Annotated, Section 63-22-115(e), is amended by deleting the language "'certified master social worker,'" and by substituting instead the language ""licensed social worker,"".

SECTION 6. Tennessee Code Annotated, Section 63-22-117(b), is amended by deleting the language "certified master social worker, licensed independent practitioner of social work," and by substituting instead the language "licensed social worker,".

SECTION 7. Tennessee Code Annotated, Section 63-22-202(d), is amended by deleting the language "certified master social worker," or "licensed independent practitioner of social work,'" and by substituting instead the language "or "licensed social worker,"".

SECTION 8. Tennessee Code Annotated, Section 68-1-101(8)(AA), is amended by deleting the language "certification and ".

SECTION 9. Tennessee Code Annotated, Section 68-24-607, is amended in the first sentence by deleting the language "certified master social worker, licensed independent practitioner of social work," and by substituting instead the language "licensed social worker,".

SECTION 10. This act shall take effect July 1, 2008, the public welfare requiring it.